

REMARKS

Claims 1-12, and 14-26 are presented for examination.

The drawings have been objected to. In response, formal drawings are submitted herewith.

REJECTION UNDER 35 U.S.C. 112, FIRST PARAGRAPH

Claims 3 has been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

The Examiner contends that there is no support for limitation “assigning the pick-up station before the customer arrives at the purchase obtaining facility.”

In response, it is respectfully submitted that claim 3 does not contain the limitation rejected by the Examiner.

Instead, claim 3 recites that the control station is configured for assigning the pick-up station for obtaining the purchase **ordered before the customer arrives at the purchase obtaining facility**.

As disclosed in the specification, see for example, page 11, lines 18-19, a customer is enabled to place an order for a purchase before arriving at the retail facility. Therefore, the claimed language is clearly supported by the specification.

REJECTIONS UNDER 35 U.S.C. 103

Claims 1-12, and 14-21 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada in view of Domain and further in view of Official Notice.

It is respectfully submitted that the Office Action appears defective. In particular, no Official Notice is found.

It is noted that in the previous Office Action, no Official Notice was applied with respect to claims 1-12.

Further, it is noted that in the previous Office Action, the Applicant traversed the Examiner's statement regarding the reasons for modification of Domain to arrive at the claimed automatic assignment arrangement. However, the Examiner contends that the Official Notice was not traversed. Therefore, it is unclear which statement is considered by the Examiner to be the Official Notice. It appears that no statement is identified as an Official Notice in the Office Action.

In response to Applicant's arguments presented in the previous Office Action, the Examiner asserts that Applicant's arguments are directed against references individually.

It appears that the Examiner misinterpreted the arguments presented in the previous Response.

Instead of arguing against the references individually, the Applicant demonstrated that:

- a) the combined teachings of the reference are not sufficient to one of ordinary skill in the art to arrive at the claimed invention, and
- b) there is no suggestion or motivation to combine reference teachings.

In particular, **claim 1** recites a retail system comprising:

- an advance ordering system for enabling a customer to order a purchase in advance,
- at least one storage facility for storing goods available for ordering, and
- multiple purchase obtaining facilities remote with respect to the storage facility, for enabling the customer to obtain the ordered purchase delivered from the storage facility after receiving an order for the purchase from the customer.

The purchase obtaining facilities include at least one drive-through purchase obtaining facility for enabling the customer in a vehicle to pick up the ordered purchase delivered to the vehicle.

The claim indicates that the drive-through purchase obtaining facility includes:

-multiple pick-up stations, each of the pick-up stations being arranged for enabling the customer in the vehicle to pick up the ordered purchase delivered to the vehicle, and

-a control station responsive to identification (ID) data provided by the customer for automatically assigning a pick-up station of the multiple pick-up stations to the customer.

a) the combined teachings of the reference are not sufficient to one of ordinary skill in the art to arrive at the claimed invention

As discussed in the previous Response, a combination of Yamada with Domain does not teach or suggest:

-**automatically** assigning a pick-up station of the multiple pick-up stations to the customer, the multiple pick-up stations being provided for obtaining purchase **ordered in advance**; and

-assigning the pick-up station **in response to ID data provided by the customer**.

It appears that the Examiner takes the position that these features are not recited in the rejected claims.

However, claim 1 expressly recites enabling a customer to **order a purchase in advance**, and multiple pick-up stations arranged for enabling the customer in the vehicle to pick up **the ordered purchase**.

Further, claim 1 expressly recites a control station **responsive to identification (ID) data provided by the customer** for **automatically** assigning a pick-up station of the multiple pick-up stations to the customer.

Moreover, claim 3 recites that the control station is configured for assigning the pick-up station for obtaining the purchase **ordered before the customer arrives at the purchase obtaining facility**.

Accordingly, the above-discussed features are expressly recited in the claims.

In connection with assigning the pick-up station **in response to ID data provided by the customer**, the Examiner takes the position that “it is inherent that some information needs to be provided in order for the facility to ascertain what order is being picked up. Furthermore, ...in the case of liquor purchases, identification being required before a pick-up station is assigned.”

First, as the Examiner is well aware, in the case of liquor purchases, identification is required to determine the age of the purchaser, rather than for assigning a pick-up station. It is respectfully submitted that Domain contains no teaching of assigning a pick-up station in response to ID provided by the customer, even in the case of liquor purchases.

Moreover, as one skilled in the art would realize, **no ID data provided by the customer** are required for assigning retail pick-up stations. Therefore, there is no reason to conclude that Domain inherently discloses this feature.

In connection with **automatically** assigning a pick-up station of the multiple pick-up stations to the customer, the Examiner asserts that “Domain would be motivated to use this

automation because this would save money by not having a person to direct the customer to the proper aisle.”

This assertion is respectfully traversed for the following reasons.

Domain discloses that when a customer places an order at the order station, “the customer receives instructions from the order clerk as to which pick-up station to drive to along with the receipt for their (sic) purchase. Three of the nine pick-up stations are accessible from each of the customer order stations.” (col. 5, lines 9-16).

Accordingly, the order clerk at the order station directs the customer to the proper aisle. However, without the order clerk, no orders can be accepted. Accordingly, the reference provides no suggestion to operate without the order clerk, as the Examiner’s suggests.

Hence, the Examiner’s reasons for modifying Domain are unwarranted.

Further, the Examiner disagrees with the Applicant’s argument that the manual activity of Domain does not accomplish results achieved by the claimed automatic arrangement. In particular, the Examiner indicates that Domain teaches a means for directing customers to available pick up points to speed up delivery, and relies upon col. 17, lines 10-35 for support of this teaching.

This portion of the reference discloses that magnetic sensors indicate to the order clerk in charge of a particular aisle that a particular pick-up station is occupied or vacant.

It is respectfully submitted that this feature of Domain is not provided to avoid lines during the pick-up procedure.

By contrast, with the claimed automatic assignment arrangement, the Domain manual assignment of the pick-up stations provides no means to avoid a situation when more than one customer is assigned to a particular pick-up station, and another pick-up station is vacant.

In particular, the Domain structure has three ordering stations, and three purchase pick-up stations associated with each ordering stations. Hence, when all three pick-up stations associated with a first ordering station are occupied, and a pick-up station associated with another ordering station is vacant, a clerk at the first ordering station cannot assign the vacant pick-up station to the customer that places an order at this ordering station.

One skilled in the art would realize that it makes no sense for Domain to increase the throughput of the pick-up stations because customers should wait a substantial period of time until their ordered goods are collected from different vendors, packed and delivered to the pick-up station. This time period substantially exceeds any waiting period associated with the pick-up stations.

Accordingly, Domain provides no reason to suggest automatic assignment of pick-up stations.

It is noted that the applied combination of references would not teach or suggest the step of automatically assigning to the customer one of said multiple pick-up stations in response to information provided by the customer when the customer arrives at the drive-through purchase obtaining facility, as independent claim 14 require.

b) there is no suggestion or motivation to combine reference teachings.

As discussed in the previous Response, Yamada discloses an online shopping system that enables a customer to order a purchase in advance, and pick up the purchase at a convenience store.

As discussed above, Domain teaches a Vendors' complex where a customer can order goods at the ordering station and pick up them immediately at the pick-up station located in the same complex.

The Examiner has taken the position that it would have been obvious to include the pick-up stations of Domain in the Yamada system.

However, the Domain patent expressly teaches away from the combination suggested by the Examiner thereby constituting **evidence of nonobviousness**. *In re Bell*, 991 F.2d 781, 26 USPQ2d 1529 (Fed. Cir. 1993); *In re Hedges*, 783 F.2d 1038, 228 USPQ 685 (Fed. Cir. 1986); *In re Marshall*, 578 F.2d 301, 198 USPQ 344 (CCPA 1978).

In particular, Domain discloses that each of the express vendor locations is provided with a drive-in window (not shown) accessible from the vehicle routing lanes. The express grocery is also provided with a walk-up window (not shown) assessable from a sidewalk 48 bordering the structure 36 of the Complex. From the drive-in or walk-up windows, orders submitted by telephone or facsimile may be picked up by customers. (col. 3, lines 17-36, col. 11, lines 18-27).

Hence, Domain teaches that the orders placed in advance (before customers arrive at the Vendors' Complex) are picked up through the drive-in or walk-up windows rather than at the pick-up stations. It is noted that these windows, which are not shown in the drawings, are different from the pick-up stations 16 associated with the ordering stations 14 (FIG. 5 of Domain).

The Examiner takes the position that the express lane of Domain is only a preferred embodiment and is therefore not required by the system of Domain.

This Examiner's position is respectfully traversed. The express lane of Domain is the only disclosed embodiment for obtaining purchased ordered in advance. Except for the drive-in or walk-up windows, Domain discloses no other means for obtaining such purchases.

The reference does not suggest using the pick-up stations 16 for obtaining purchases ordered in advance. Instead it suggests using the drive-in or walk-up windows.

Therefore, Domain contains clear discouragement from combining Yamada with Domain to arrive at the claimed multiple automatically assignable pick-up stations for enabling the customer to pick up the purchase ordered in advance.

Instead, a combination of Yamada with Domain would encourage one skilled in the art to use the drive-in or walk-up windows in the express lane of Domain for picking up a purchase ordered in advance. It is noted that these windows are neither manually nor automatically assigned to arriving customers.

It is noted that the Examiner admits that the pick-up station for obtaining purchases ordered in advance corresponds to the express lane of Domain (see the last paragraph on page 5 of the Office Action).

Accordingly, there is no suggestion or motivation to combine the reference teachings to arrive at the claimed invention.

Moreover, it appears that the Examiner failed to give adequate consideration to the particular problems and solution addressed by the claimed invention. *Northern Telecom, Inc. v. Datapoint Corp.*, 908 F.2d 931, 15 USPQ2d 1321 (Fed. Cir. 1990); *In re Rothermel*, 276 F.2d 393, 125 USPQ 328 (CCPA 1960). Specifically, neither Yamada nor Domain addresses the problem of reducing customers' waiting time in a system for obtaining purchases ordered in advance by providing automatic assignment of pick-up stations in response to customers' ID information. Therefore, there is no motivation to combine these references to arrive at the claimed automatic assignment arrangement proposed by the present invention.

Dependent claims 2-12 and 14-21 are defined over the prior art at least for the reasons discussed above in connection with independent claims 1 and 14. Moreover, the applied combination of references does not teach or suggest some of the features recited in these claims.

Hence, the rejection of claims 1-12 and 14-21 under 35 U.S.C. 103 is improper and should be withdrawn.

Claims 22-24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Domain and further in view of Official Notice.

This rejection also appears to be defective because no Official Notice is provided. Independent claim 22 recites a drive-through retail facility for enabling a customer in a vehicle to make a purchase without leaving the vehicle. The retail facility comprises multiple purchase pick-up stations, and an assignment arrangement for automatically assigning one of the multiple pick-up stations to the customer in response to ID information provided by the customer.

As discussed above, Domain does not teach or suggest the claimed assignment arrangement for automatically assigning one of the multiple pick-up stations to the customer in response to ID information provided by the customer.

Also, as discussed above, there is no reason for modifying the Domain arrangement to arrive at the claimed assignment arrangement.

Dependent claims 23-26 are defined over the prior art at least for the reasons discussed above in connection with independent claim 22. Moreover, the applied combination of references does not teach or suggest some of the features recited in these claims.


Hence, the rejection of claims 22-26 under 35 U.S.C. 103 is improper and should be withdrawn.

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To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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